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Executive summary

The International Labour Organization (ILO) has been working with indigenous peoples since the 1920s. The ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169), has been ratified by 17 countries and is internationally recognized as the foremost instrument on the subject. The work of ILO in the field of indigenous and tribal peoples falls into two categories: supervision of relevant ILO conventions, and technical cooperation. The present document provides a summary of the most notable developments within the past year in these two areas. This includes details of observations of the supervisory bodies of ILO in respect of the ILO Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, 1957 (No. 107) and Convention No. 169, and details of recent developments in ILO projects and programmes that address indigenous and tribal peoples both directly and indirectly.

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Introduction

1. The International Labour Organization (ILO) has been working with indigenous peoples since the 1920s, aiming to promote social justice, and to improve their living and working conditions. The ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169),[1] has been ratified by 17 countries[2] and is internationally recognized as the foremost instrument on the subject.[3] A number of other ILO standards are of relevance to indigenous and tribal peoples. These include, but are not limited to: the Convention concerning Forced or Compulsory Labour, 1930 (No. 29);[4] the Convention concerning Discrimination in Respect of Employment and Occupation, 1958 (No. 111)[5] and the Worst Forms of Child Labour Convention, 1999 (No. 182);[6] and the Declaration on Fundamental Principles and Rights at Work, 1998.[7] Many ILO technical cooperation projects and programmes also address issues pertaining to indigenous and tribal peoples. The work of ILO in the specific field of indigenous and tribal peoples falls into two categories:

(a) Supervision of Conventions Nos. 107 and 169;

(b) Technical cooperation.

I. Supervision of Conventions Nos. 107 and 169

A. Committee of Experts on the Application of Conventions and Recommendations

2. Article 22 of the ILO Constitution requires member States to submit periodic reports to the International Labour Office on the measures taken to give effect to the provisions of ratified conventions. The Committee of Experts on the Application of Conventions and Recommendations, a body of 20 independent experts, examines the application of ILO conventions — including Conventions Nos. 107 and 169 — on a regular basis. Its comments take the form of observations or direct requests. At the Committee's seventy-second session (November-December 2001), the reports of a number of States were examined. The following is a brief summary of the content of the Committee's observations (further details can be found in the ILOLEX database at http://www.ilo.org).[8]

1. Convention No. 107

3. In addition to its observation concerning Bangladesh (below), requests regarding certain points were addressed directly to Angola and Malawi.

Bangladesh

4. Making reference to the armed conflict that had taken place in the Chittagong Hill Tracts (CHT) region of the country, and to the Peace Agreement signed on 2 December 1997, the Committee noted the detailed information it had received on the implementation of the Agreement. While the Committee welcomed the Agreement, it was aware that controversy remained over the slow progress of its implementation. The Committee noted the establishment of a number of bodies concerned with the implementation of the Agreement, and requested the

Government to keep it informed of the progressive transfer of responsibility to tribal leaders in the CHT.

5. The Committee noted the constitution of a Land Commission to resolve land disputes within the CHT. It noted with regret that the Commission had not yet begun functioning. The Committee also referred to a situation regarding the cancellation of the lease agreements of non-tribals who had failed to use lands for the purpose for which those lands had been allotted to them, and noted that a situation involving the rehabilitation of 3,000 landless tribal families had not been resolved.

6. The Committee also noted the remark in the Government's report concerning the encouragement of a kind of shifting/swidden or *jhum* agriculture, which, the Government indicates, is less environmentally damaging than other *jhum* methods. The Committee requested further information in this regard.

2. Convention No. 169

7. In addition to its observations concerning Denmark, Guatemala and Mexico (see below), requests regarding certain points were also addressed directly to these three States.

Denmark

8. The Committee noted that the Government's second report on the Convention had not been received. It therefore repeated its previous observation, in which it had asked for additional information on a number of points in a request addressed directly to the Government.

Guatemala

9. The Committee took note with interest of the second report of the Government of Guatemala, noting that the Government had offered little additional information, since a referendum on Constitutional reforms had been rejected by popular vote in May 1999, on the measures taken since then to implement the Convention and the Peace Agreements. The Committee drew attention to additional sources of information available regarding the implementation of the Peace Agreements, including various reports of the United Nations Verification Mission in Guatemala. Taken together, these sources indicate that considerable problems remain in respect of the implementation of the Peace Agreements, and the Convention. The Committee recalled that ratification of Convention No. 169 was one element in the settlement of the internal conflict in the country. It urged the Government to renew efforts to overcome difficulties in the application of the Peace Agreements, and the Convention.

Mexico

10. The Committee noted the detailed report provided by the Government. It also noted that, at its 282nd Session (November 2001), the Governing Body had declared receivable two representations under article 24 of the ILO Constitution, alleging non-observance of the Convention by Mexico. The Committee also referred to legislative initiatives adopted, particularly the constitutional reforms on indigenous questions. These reforms have generated much controversy, and some sections of Mexican society, including indigenous and workers' organizations, have expressed

concern that they will have a negative impact on the social, economic and legal situation of the indigenous peoples of Mexico. The Committee has examined the constitutional reforms in more detail in a direct request to the Government.

B. Representations made in respect of Convention No. 169

11. Representations under article 23 of the ILO Constitution may be made by employers' and workers' organizations that claim that a State has failed to observe a ratified Convention. A tripartite committee of the Governing Body is set up to examine the matter. Reports of committees set up to examine representations that have so far been concluded can be found in the ILOLEX database (http://www.ilo.org).

12. At its 282nd Session (November 2001), the ILO Governing Body declared receivable two Representations filed with ILO in respect of the application by Mexico of Convention No. 169. A third was declared receivable at the March 2002 (283rd) Session. These are being examined by a committee of the Governing Body, and others have now been received.

II. Technical cooperation

13. The following is a summary of the main ILO technical cooperation activities of relevance to indigenous and tribal peoples that have been undertaken during the past year.

A. Project to Promote ILO Policy on Indigenous and Tribal Peoples

14. The Project to Promote ILO Policy on Indigenous and Tribal Peoples works at the policy level. It promotes the application of the principles of Convention No. 169 and provides assistance in the development of policies and legislation that address the particular needs of indigenous peoples. The Project began in 1996, and is financed by the Danish Agency for Development Assistance (DANIDA). It is based in the Equality and Employment Branch of ILO. The principal geographical focus of the project is on Africa, and South and South-East Asia. The following is a summary of the Project's main activities during 2002.

1. Asia

15. In **Cambodia**, a national seminar to inform government officials/agencies about the different policies and programmes of the various international agencies was held in April 2002, in collaboration with the Governmental Inter-Ministerial Committee on Highland Peoples Development (IMC). In **India**, a seminar will be organized to further discuss relevant policies and programmes, as well as particular concerns on Convention No. 169. In addition, a separate session with indigenous and tribal peoples to enable them to present their particular concerns has been suggested. In **Malaysia**, a national seminar on the rights of indigenous peoples was held during August 2002, with the participation of the Human Rights Commission of Malaysia. In the **Philippines**, a one-year research project has just been completed. This analysed the legal framework for the protection of indigenous peoples' rights in

the Philippines and its implementation. Recommendations from this study will be followed up in 2003. At the **regional level**, a training session for indigenous professionals from South and South-East Asia on Convention No. 169 and other relevant international standards will be held in August 2003.

2. Africa

16. In collaboration with the Office of the United Nations High Commissioner for Human Rights and the United Nations Educational, Scientific and Cultural Organization (UNESCO), ILO participated in a human rights training session for "pygmies" from six different countries in **Central Africa** in November 2002. Further to the training, two major activities in the region have been initiated by the Project. In **Kenya**, following a national workshop in 2001 to facilitate the coordination of the collection and elaboration of a position paper for pastoralists and hunter-gatherers in Kenya, a working group of pastoralists and hunter-gatherers, representative of all the main groups in Kenya, was formed to coordinate efforts. A common position paper was elaborated and presented in a second national workshop in 2002. Important elements of the paper have been incorporated into the new draft constitution.

3. Latin America

17. In **Argentina**, the Project is supporting an initiative aimed at the promotion of Convention No. 169, in collaboration with the University of Buenos Aires and ACCESOS.

B. International Labour Organization (ILO) Interregional Programme to Support Self-Reliance of Indigenous and Tribal Peoples through Cooperatives and other Self-Help Organizations (INDISCO)

18. The Interregional Programme to Support Self-Reliance of Indigenous and Tribal Peoples through Cooperatives and other Self-Help Organizations (INDISCO) was launched in 1993 under a DANIDA/ILO Framework Agreement. The objective of the programme is to contribute to the improvement of the socio-economic conditions of indigenous and tribal peoples through demonstrative pilot projects and dissemination of best practices for policy improvement. Various projects and activities are funded by donors such as DANIDA, the Netherlands, the Canadian International Development Agency (CIDA), the Arab Gulf Programme for United Nations Development Organizations (AGFUND), the United Nations Development Programme (UNDP), the United Nations Volunteers (UNV), the World Food Programme (WFP), Rabobank, the Philippine International Association, the Australian Government's overseas aid program (AUSAID), Deutsche Gesellschaft für Technische Zusammenarbeil (GTZ) and Internationale Weiterbildung und Entwicklung gemeinnützige GmbH (InWEnt).

1. Asia

19. Following five pilot projects in **India**, INDISCO now has an expanded project that aims at contributing to the socio-economic empowerment of tribal people through a cluster-level approach to job-creation, and strengthening of tribal

organizations. As a follow-up to the joint INDISCO-In Focus Programme on Crisis Response and Reconstruction (IFP/CRISIS) study entitled *Coping Strategies and Early Warning Systems of Tribal People in India in the Face of Natural Disasters: Case Studies in Mayurbhanj, Orissa and Dungarpur, Rajasthan, India*,[9] a national workshop was held, in which the recommendations of the study were disseminated and discussed. In a similar workshop, the INDISCO study on tribal cooperatives in India was presented and discussed for follow-up. At the national level, INDISCO continues to work with the Ministry of Tribal Affairs.

20. With funding from UNDP, a Support for Policy and Programme Development (SPPD) project aimed at full implementation of the Indigenous Peoples' Rights Act (IPRA) in the **Philippines** was carried out in partnership with the National Commission on Indigenous Peoples (NCIP). Case studies on best practices by indigenous peoples and on the resolution of issues concerning the rights of the indigenous peoples were also undertaken. The results of these activities are now being used as inputs by NCIP in the formulation of its medium-term action programme and financial plan.

21. Based on a study on the socio-economic vulnerability of urban-based tribal peoples in northern **Thailand**, a pilot project on tribal peoples' community-driven approaches to human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) prevention is being discussed by donors for funding. In **Viet Nam**, a pilot project among ethnic minority communities generated alternative non-farm small businesses. These minorities continue to manage the revolving loan funds and plan/implement their own development and income-generating activities.

22. In connection with the International Year of Mountains, a Regional Workshop on Indigenous Practices of Sustainable Land and Resource Management in the Asian Highlands was held in Chiang Mai, Thailand, in December 2002, gathering a range of key stakeholders from the region.

2. Africa

23. Baka communities in **Cameroon** have been supported with respect to establishing their own self-help organization, and a project, with funding from the ILO Jobs for Africa programme, is being implemented with the pygmies. A study on the traditional livelihoods and new employment opportunities among the pygmies has been printed and disseminated. In **the United Republic of Tanzania**, a study on Challenges to Traditional Livelihoods and Newly Emerging Employment Patterns of Pastoralists in the United Republic of Tanzania has been finalized and disseminated for policy improvement and follow-up action.

C. Central American regional project

24. The project on Legal Empowerment of Indigenous Peoples in Central America was an ILO undertaking, funded by the United Nations Fund for International Partnerships (UNFIP), and executed by ILO (launch date: June 1999). It had a subregional focus with originally a geographical coverage including Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The development objective of the project was to strengthen the capacity of indigenous peoples and their organizations to secure and defend their legitimate rights within the framework of national legal systems. Further information can be found at http://www.oit.or.cr/unfip. The project has recently been completed.

D. In Focus Programme to Promote the ILO Declaration on Fundamental Principles and Rights at Work (DECLARATION)

25. During 2002, The In Focus Programme to Promote the ILO Declaration on Fundamental Principles and Rights at Work (DECLARATION) prepared the ILO Global Report on the Elimination of Discrimination in Employment and Occupation. The subject of indigenous and tribal peoples constitutes an integral component of this report, in particular with regard to the issues of racial discrimination and poverty that it addresses.

26. The DECLARATION Special Action Programme to Combat Forced Labour (SAP-FL) had selected, after extensive consultations, the question of forced labour and its linkages to discrimination, poverty and indigenous peoples as a thematic priority in Latin America. Workshops, bringing together government officials, other policy makers and analysts, and human rights and development organizations, were conducted in Central America and the Andes during 2002. Consideration is being given to a major regional project on forced labour, discrimination and indigenous peoples in seasonal labour markets.

E. Network for sustainable tourism development with indigenous and rural communities in Latin America (REDTURS)

27. As a result of the new trends in global tourism, indigenous and rural communities in Latin America are facing pressures on their natural, cultural and social resources. The aim of the Network for sustainable tourism development with indigenous and rural communities in Latin America (REDTURS) is to introduce the concept of sustainable development into the tourism sector, linking the objective of economic efficiency with social equity, respect for local cultures, community participation and natural resource preservation.

28. REDTURS has just completed its first phase, under which it carried out 19 case studies in Bolivia, Ecuador and Peru, and produced a working paper on the relevance of grass-roots initiatives in tourism to new opportunities and benefits for the rural poor. The project has also implemented three national workshops and an international seminar to share knowledge and experiences. For its second phase, the strategy of REDTURS is to expand/speed up the provision of innovative business development services (BDS) to rural communities, and the Network plans to implement a training programme to improve the technical and managerial skills of micro, small and community operators. Cuba, Guatemala and Nicaragua will be the first countries to benefit from technical advice aimed at helping communities to establish and operate micro and small enterprises.

F. International Programme on the Elimination of Child Labour (IPEC)

29. The International Programme on the Elimination of Child Labour (IPEC) is strengthening its work agenda so as to be able to address the needs of indigenous and tribal children. Ongoing technical cooperation activities in various countries address their needs. These needs involve addressing such issues as trafficking in the Mekong region, bonded labour in Nepal and bilingual education in Latin America.

30. At the international level, joint work with the INDISCO programme has taken place in the Philippines. The education unit of IPEC has also conducted (jointly with INDISCO) a review study on child labour and education challenges.

III. Inter-agency collaboration

31. ILO has been actively involved in continuing inter-agency support to the Permanent Forum on Indigenous Issues. In this respect, a number of meetings were held during 2002, with the members of the Forum themselves, as well as among the United Nations agencies. Other instances of inter-agency collaboration have been achieved within the context of country and regional activities, which were outlined above, through summaries of individual projects and programmes.

Notes

[1] See ILO, *International Labour Conventions and Recommendations, 1977-1995*, vol. III (Geneva, International Labour Office, 1996).

[2] Argentina, Bolivia, Brazil, Colombia, Costa Rica, Denmark, Dominica, Ecuador, Fiji, Guatemala, Honduras, Mexico, Netherlands, Norway, Paraguay, Peru and Venezuela.

[3] Its predecessor, the Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, 1957 (No. 107) (see International Labour Organization, *International Labour Conventions and Recommendations, 1952-1976*; vol. II (Geneva, International Labour Office, 1996)) is still in force in those countries that ratified it, but not Convention No. 169. However, it is no longer open for new ratifications.

[4] See International Labour Organization, *International Labour Conventions and Recommendations, 1919-1951*, vol. I (Geneva, International Labour Office, 1996).

[5] Ibid., vol. II.

[6] http://ilolex.ilo.ch:1567/cgi-lex/convde.pl?C182. Accessed on 17 March 2003.

[7] http://www.ilo.org/public/english/standards/ded/declaration/text/. Accessed on 17 March 2003.

[8] Comments from the 2002 session appeared after this document was prepared. For the latest comments, see the ILOLEX database.

[9] D. Sharma, ed. (New Delhi, International Labour Office, October 2001).